MISCELLANEOUS AMENDMENTS TO AND ERRATA SHEET FOR BOARD ORDER AM-34-02 (REVISIONS TO NR 445)

(as of 4/22/03)

COVER PAGE FOR ORDER, PAGE 89
TECHNICAL CORRECTION:

The consent of the Attorney General and the Revisor of Statutes will be requested for the incorporation by reference of a new standards document in ch. NR 484.

Explanation for change: Mandatory statement added to "Analysis" section on cover page of order.

SECTION 40, PAGE 122
CHANGES RELATED TO DIESEL EMISSIONS:

NR 445.02(2) "Certified control device" means a control device that is certified by either the California air resources board~~,~~ or the United States environmental protection agency ~~or an alternative or equivalent control method as approved by the department~~.

Explanation for change: This proposed change moves the department's ability to approve alternative methods of control from the definition of "certified control device" to a new paragraph under "Control Requirements". This change reflects the original intent as expressed in the rule language that went out to public hearing.

SECTION 63, PAGE 131
CHANGES RELATED TO PROMPT DISCLOSURE:

NR 445.06(2) The owner or operator will not be deemed to be out of compliance with this subchapter or with the provisions identified in sub. (1)(a) to (e) for any hazardous air contaminant listed in Table A, B or C of s. NR 445.07 for the period of time prior to either of the determinations in par. (a) or (b) being made if the determination is submitted in writing to the department within ~~14~~ 21 calendar days, and no later than 90 calendar days after the determination, the owner or operator certifies that the facility is in compliance with all applicable requirements for the hazardous air contaminant. The department may, in writing, extend the 90 calendar days for achieving compliance. The determinations are as follows:

Explanation for change: This proposal is to change the reporting requirement from 14 to 21 days for prompt disclosure under the Safe Harbor provisions. This change is consistent with a similar federal requirement.

SECTION 63, PAGES 135, 150, 153 AND 155
CHANGES RELATED TO OBSTRUCTED DISCHARGE AND TERRAIN:

NR 445.07(6) USE REQUIREMENTS FOR TABLES A, B AND C. (a) The emission thresholds in columns (c) to (f) in Tables A, B and C for any hazardous air contaminant may only be used if emissions from the source ~~of the emission~~ are vented to the atmosphere in a manner that meets both of the following:

1. ~~Has~~ The emissions are from an unobstructed ~~vertical~~ discharge point.

Note: Valves designed to open and close at the point of discharge are not considered to be obstructions if they are open at time of emission.

2. ~~Does not have terrain elevations more than 25% of the discharge height within 1000 feet of the stack.~~ The emissions are from a stack that is within 10 degrees of vertical.

NR 445.07(6) TABLE A NOTE: The emission rates in columns (c) to (f) in Table A for any hazardous air contaminant may only be used if ~~the source of the emission~~ emissions are from an ~~has a~~ unobstructed vertical discharge point ~~and terrain elevations that are not more than 25% of the discharge height exist within 1000 feet of the stack.~~ Owners and operators of sources unable to use this table should refer to s. NR 445.08(2).

NR 445.07(6) TABLE B NOTE: The emission rates in columns (c) to (f) in Table B for any hazardous air contaminant may only be used if ~~the source of the emission~~ emissions are from an ~~has a~~ unobstructed vertical discharge point~~and terrain elevations that are not more than 25% of the discharge height exist within 1000 feet of the stack~~. Owners and operators of sources unable to use this table should refer to s. NR 445.08(2).

NR 445.07(6) TABLE C NOTE: The emission rates in columns (c) to (f) in Table C for any hazardous air contaminant may only be used if ~~the source of the emission~~ emissions are from an ~~has a~~ unobstructed vertical discharge point~~and terrain elevations that are not more than 25% of the discharge height exist within 1000 feet of the stack.~~ Owners and operators of sources unable to use this table should refer to s. NR 445.08(2).

Explanation for change: Four changes are proposed to the section on "Use Requirements for Tables A, B and C".

1. We have clarified that the stack conditions for using the threshold tables apply only to the hazardous air contaminant being considered.
2. We have clarified "unobstructed vertical discharge".
3. We have deleted the language related to terrain elevations. Upon closer examination of this requirement, we concluded that it had the potential to exclude many facilities from one of the most significant streamlining provisions of the revised rule when, in fact, terrain was not the dominating factor. The Air Program has a mechanism to identify areas of geographic concern and to work on a case-by-case basis with facilities, where appropriate. This approach is consistent with our objective to streamline the regulatory process and protect public health. It is a more targeted approach to addressing a situation that we do not believe is a common occurrence but that should be addressed when it does occur.
4. Footnotes to Tables A, B and C have been revised to reflect the changes in rule language.

SECTION 63, PAGE 163, 164 AND 165
CHANGES RELATED TO DIESEL EMISSIONS:

NR 445.09(3)(a)1. For an engine manufactured or last rebuilt prior to January 1, 1995, install, operate and maintain a control device that achieves at least 85% overall control of particulate matter emissions or ~~that is~~ a certified control device ~~to achieve~~ that has an overall level of particulate matter emission control that is great enough to ensure that one of the following emission rates is achieved:

NR 445.09(3)(b) will be renumbered NR 445.09(3)(c)

NR 445.09(3)(b) Paragraph (a) notwithstanding, the department may approve the use of an alternative or equivalent control method to any certified control device specified in par. (a)1., 2., 3. or 4.

NR 445.09(4)(d) An owner or operator complying with the best available control technology requirement in sub. (3)(a)3. or 4., or a facility constructed or last modified after the effective date of this section… [revisor inserts date] subject to sub. (3)~~(b)~~(c), shall submit information describing how the best available control technology requirement will be met in a permit application in accordance with s. NR 406.03. Compliance with the best available control technology requirement shall be demonstrated in accordance with the permit.

Note: NR 406.03 requires that owners or operators receive a construction permit prior to commencing operation of the source.

(e) The owner or operator of a facility constructed or last modified before the effective date of this section… [revisor inserts date] subject to sub. (3)~~(b)~~(c) shall do both of the following:

Explanation for change: This proposed change moves the department's ability to approve alternative methods of control from the definition of "certified control device" to a new paragraph under "Control Requirements". This change reflects the original intent as expressed in the rule language that went out to public hearing.

SECTION 63, PAGE 167
CHANGES RELATED TO COAL DUST:

NR 445.10(2)(c) ~~Provision for the keeping~~ Keeping ~~of~~ records of actions taken to control outdoor fugitive coal dust emissions in accordance with s. NR 439.04(2).

(d) ~~Provision for keeping~~ Keeping a copy of the plan and records of all actions taken at the facility for inspection upon request.

Explanation for change: We are proposing a slight wording change to make the language consistent with the introductory paragraph.

Table E
Substances Of Concern for Sources of Incidental Emissions of Hazardous Air Contaminants

Substance	CAS Number
Acetaldehyde	75-07-0
Acrolein	107-02-8
Acrylamide	79-06-1
Acrylic acid	79-10-7
Acrylonitrile	107-13-1
Ammonia	7664-41-7
Arsenic, elemental and inorganic compounds, as As	7440-38-2
Arsine	7784-42-1
~~Bis(chloromethyl) ether (BCME) and technical grade~~	~~542-88-1~~
Benzene	71-43-2
Benzo(a)pyrene	50-32-8
Beryllium and beryllium compounds, as Be	7440-41-7
Bromine	7726-95-6
Bromine pentafluoride	7789-30-2
1,3-Butadiene	106-99-0
Cadmium and cadmium compounds, as Cd	7440-43-9
Carbon tetrachloride	56-23-5
Chlorine	7782-50-5
Chlorine dioxide	10049-04-4
Chlorine trifluoride	7790-91-2
Chloroform	67-66-3
~~Chloromethyl methyl ether (CMME)~~	~~107-30-2~~
Chromium (VI): Chromic acid mists and dissolved Cr (VI) aerosols, as Cr	7440-47-3
Chromium (VI): compounds and particulates	7440-47-3
Cobalt, elemental, and inorganic compounds, as Co	7440-48-4
Diborane	19287-45-7
~~1,3-Dichloropropene~~	~~542-75-6~~
~~Diglycidyl ether (DGE)~~	~~2238-07-5~~
1,2-Dibromoethane (Ethylene dibromide; EDB)	106-93-4
1,2-Dichloroethane (Ethylene dichloride; EDC)	107-06-2
Diglycidyl ether (DGE)	2238-07-5
Ethylene oxide	75-21-8
Fluorine	7782-41-4
Formaldehyde	50-00-0
Hexachlorobenzene (HCB)	118-74-1
Hexamethylene-1,6-diisocyanate (HDI)	822-06-0
Hydrazine and hydrazine sulfate	302-01-2
Hydrogen chloride (Hydrochloric acid; Muriatic acid)	7647-01-0
Hydrogen bromide	10035-10-6
Hydrogen cyanide	74-90-8
Hydrogen fluoride (Hydrofluoric acid)	7664-39-3
Hydrogen peroxide	7722-84-1
Hydrogen sulfide	7783-06-4
Indium	7440-74-6
Iodine	7553-56-2
Isophorone diisocyanate	4098-71-9

Substance	CAS Number
Lead Acetate, as Pb	301-04-2
Lead Phosphate, as Pb	7446-27-7
Maleic anhydride	108-31-6
Manganese, elemental and inorganic compounds, as Mn	7439-96-5
Mercury, as Hg, alkyl compounds	7439-97-6
Mercury, as Hg, aryl compounds	7439-97-6
Mercury, as Hg, inorganic forms including metallic mercury	7439-97-6
Methyl hydrazine	60-34-4
Methyl isocyanate	624-83-9
Methylene bisphenyl isocyanate (Methylene diphenyl isocyanate; MDI)	101-68-8
Methylene chloride (Dichloromethane)	75-09-2
Nickel and compounds, as Ni	7440-02-0
Nitric acid	7697-37-2
Octachloronaphthalene	2234-13-1
Oxalic acid	144-62-7
~~Perchloroethylene (Tetrachloroethylene)~~	~~127-18-4~~
Pentachloronaphthalene	1321-64-8
Pentachlorophenol (PCP)	87-86-5
Perchloroethylene (Tetrachloroethylene)	127-18-4
Phenylenediamine (mixtures and isomers)	106-50-3
Phosphine	7803-51-2
Phosphoric acid	7664-38-2
Phosphorus (yellow)	7723-14-0
Phosphorus pentachloride	10026-13-8
Platinum, soluble salts, as Pt	7440-06-4
Propylene dichloride (1,2-Dichloropropane)	78-87-5
Rhodium, soluble compounds, as Rh	7440-16-6
Selenium and compounds, as Se	7782-49-2
Sulfuric acid	7664-93-9
Tellurium and compounds, except hydrogen telluride, as Te	13494-80-9
Tetrafluoroethylene	116-14-3
Thallium, elemental and soluble compounds, as Tl	7440-28-0
Tin organic compounds, as Sn	7440-31-5
2,4-/2,6-Toluene diisocyanate (mixtures and isomers) (TDI)	584-84-9
Trichloroethylene (Trichloroethene)	79-01-6
Trimellitic anhydride	552-30-7
Triorthocresyl phosphate	78-30-8
Tungsten, as W, soluble compounds	7440-33-7
Vinyl chloride	75-01-4
n-Xylene-alpha,alpha'-diamine	1477-55-0

Explanation for change: The proposed changes to Table E deletes three substances that do not need to be listed in Table E because they are pesticides and are addressed as a process of concern under NR 445.11(1)(a)6. Two other substances will be placed in correct alphabetical order in Table E.

SECTION 63, PAGE 176
CHANGES RELATED TO PROMPT DISCLOSURE:

NR 445.15(2)(a)1. ~~Due~~ Exercised due diligence ~~was exercised~~ and followed the procedures and other provisions in this subchapter for identifying and quantifying hazardous air contaminants ~~were followed~~.

NR 445.15(2)(a)3. Within ~~14~~ 21 calendar days of making the determination that a hazardous air contaminant does not comply with an applicable emission requirement for that contaminant, submits the determination in writing to the department.

Explanation for change: This proposal is to change the reporting requirement from 14 to 21 days for prompt disclosure under the Backstop provision. This change is consistent with a similar federal requirement. Also revised language to make more consistent with introductory statement.

SECTION 63, PAGE 176
TECHNICAL CORRECTION

NR 445.15(2)(b) **Note:** The address for submittal of information and requests for an extension from the deadline in ~~sub. (2)~~ par.(a)~~3~~4. is:

Explanation for change: To correct cross-reference error.